

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEONTE STEPHENGLLEN WILLIAMS,

Defendant-Appellant.

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UNPUBLISHED

July 29, 2014

No. 315689

Oakland Circuit Court

LC No. 2012-242239-FC

Before: MARKEY, P.J., and OWENS and FORT HOOD, JJ.

PER CURIAM.

Defendant was convicted by a jury of assault with intent to murder, MCL 750.83, armed robbery, MCL 750.529, and two counts of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. He was sentenced to 33 to 66 years' imprisonment for the assault with intent to murder and armed robbery convictions, and two years for each of the felony-firearm convictions. He now appeals by right. We affirm.

Defendant argues that sufficient evidence did not exist for a reasonable jury to convict him of assault with intent to murder. Specifically, defendant contends that the prosecution failed to present evidence demonstrating that he possessed the intent to kill the victim, Andre Foster, Jr. Defendant argues that neither of the two gunshots fired were intended to hit the victim. At most, defendant contends, the assault satisfied the requirements for the lesser offense of assault with intent to do great bodily harm less than murder. Additionally, defendant argues that the trial court erred when it denied his motion for a directed verdict. We disagree.

When reviewing challenges to the sufficiency of the evidence, we view the evidence de novo in a light most favorable to the prosecution to determine whether a rational trier of fact could have found all essential elements of the crime to have been proved beyond a reasonable doubt. *People v Meissner*, 294 Mich App 438, 452; 812 NW2d 37 (2011). This Court reviews a challenge to the trial court's ruling on a motion for a directed verdict in the same manner as a challenge regarding the sufficiency of the evidence, except that only the evidence presented by the prosecution is reviewed. *People v Aldrich*, 246 Mich App 101, 122; 631 NW2d 67 (2001).

The elements to prove assault with intent to commit murder are: (1) an assault, (2) with the actual intent to kill, (3) that would make the killing murder if successful. *People v Brown*, 267 Mich App 141, 147-148; 703 NW2d 230 (2005). "Michigan generally defines an assault as 'either an attempt to commit a battery or an unlawful act that places another in reasonable

apprehension of receiving an immediate battery.”” *Meissner*, 294 Mich App at 453-454, quoting *People v Starks*, 473 Mich 227, 234; 701 NW2d 136 (2005). Regarding the element of actual intent to kill, minimal circumstantial evidence is sufficient because of the inherent difficulty in proving an actor’s state of mind. *People v Ericksen*, 288 Mich App 192, 196-197; 793 NW2d 120 (2010). Intent can be inferred from any facts in evidence. *Id.* at 196.

Defendant challenges only that the prosecution failed to prove beyond a reasonable doubt that he possessed the actual intent to kill the victim. But viewing the evidence in the light most favorable to the prosecution, a reasonable jury could have concluded that defendant intended to kill Foster. The victim stated that after defendant pointed a gun at him, he told Kamonte Stanley and Ricky Larkin that they should leave because he was about to leave the victim dead. Further, the victim stated that defendant counted down from 10, implying that he would shoot the victim at the end of the countdown; however, defendant shot at the victim’s torso when he reached “two.” Though the first shot did not strike Foster, it could be inferred from the evidence that he escaped injury by turning at the moment of the shot, rather than because defendant intended to miss. Defendant then shot Foster during a struggle over the gun.

Defendant is correct in his observation that he presented a very different version of the events; additionally, Larkin’s account was inconsistent with Foster’s account, because Larkin claimed he did not see a gun. But we must consider the evidence in the light most favorable to the prosecution. *Meissner*, 294 Mich App at 452. Though there were minor inconsistencies in some of the statements taken from Foster and his father compared to their trial testimony, there was no inconsistency regarding the assertion that defendant shot at Foster from close range. Taking the evidence in the light most favorable to the prosecution, defendant stated he was about to kill the victim, then shot at him twice from less than three to four feet away, hitting him once. This evidence was sufficient for a reasonable jury to conclude that defendant possessed an actual intent to kill. For the same reason, the trial court properly denied defendant’s motion for a directed verdict.

We affirm.

/s/ Jane E. Markey  
/s/ Donald S. Owens  
/s/ Karen M. Fort Hood